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December 8, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: WT Docket No. 11-18
File No. 0004566825
RM-11592

Dear Madam Secretary:

On December 6, 2011, Messrs. Wirt Yerger and Charles Pickering, representing Cavalier Wireless, LLC met with Commissioner Clyburn and Messrs. Louis Peraertz and David Grimaldi of Commissioner Clyburn's office and discussed matters as set forth below. No materials were handed out at the meeting.

The Commissioner and staff were advised that:

1. Without a one-band solution (also often referred to as interoperability), there will be no meaningful broadband competition in the 700 MHz band.

2. There is considerable Congressional support for a one-band solution. (See the enclosed correspondence.)

3. Public Safety would benefit from the conditions, as small carriers need it to operate and would be more likely to offer service in rural areas.

4. Without a one-band solution, there is no Band 12 equipment that offers roaming capability.

5. Without roaming, Band 12 carriers will be very hard-pressed to make a competitive offering, especially in "green field" situations.

6. Without a one-band solution, the FCC's data roaming rules effectively do not extend to 700 MHz.

7. The one-band solution advocated involves only the lower 700 MHz band.

8. Recent technical studies show that the purported interference issues – which have never been supported meaningfully – are non-existent.

9. The timeframe for the implementation of a one-band solution should be no slower than (a) initiation by mid-year 2012 and (b) completion by end of 2012. Were it to take longer, potential competition in 700 MHz broadband could well be foreclosed prior to it ever coming into existence.

10. In response to inquiries regarding the imposition of conditions in other proceedings, the enclosed excerpts from a pleading already submitted in this proceeding is enclosed. It demonstrates that sufficient nexus clearly exists to support the conditions requested.

Should any questions arise, please communicate directly with the undersigned.

Very truly yours,

/s/ Thomas Gutierrez
Counsel for Cavalier Wireless, LLC

Enclosures

cc: David Grimaldi
Louis Peraertz

STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR

HALEY BARBOUR
GOVERNOR

September 20, 2011

Chairman Julius Genachowski
Federal Communications Commission
Room 8-B201
445 12th Street SW
Washington, DC 20554

Dear Chairman Genachowski:

From the Reagan Administration to the current Administration, our nation has benefited greatly from interoperable spectrum policy across three generations of wireless technology. First generation analog technology and present generation digital technology differ greatly in capacity and modern applications; but, one significant thread runs constantly through the last thirty years of cellular history. It is this -- all previous commercial spectrum deployments and devices flourished as a result of interoperability. The resulting explosion in cellular communication, competition, innovation, investment, productivity and consumer benefits derive in large part from the ability for networks and devices to have maximum connectivity and functionality.

It is my understanding that this successful and proven interoperable policy is currently at risk. The purpose of my letter is to urge the Commission to move forward quickly to find a workable solution on interoperability for the 700 megahertz (MHz) spectrum. As private companies prepare to build and invest in the fourth generation of wireless broadband networks and devices, I urge the Commission to take the following decisive action: 1) help clear adjacent broadcast channels that interfere and encumber the ability to build and deploy new networks and equipment; and 2) complete action on the rulemaking proceeding (RM-11592) for interoperability for the 700 MHz spectrum.

The benefits of a clear sequential path to 700 MHz interoperability are substantial. A first and doable step is to provide an interoperable solution in the lower band of the 700 MHz spectrum. I encourage the use of a single band class in the lower 700 MHz With that first step, the industry can then begin to work toward interoperability throughout 700 MHz. This action is both technically and economically feasible.

My home state of Mississippi now has one of the best public safety networks in the country. After the horrible disaster of Hurricane Katrina, federal and state funds of more than $250 million have been contributed to build a 4th generation, LTE network using 700 MHz spectrum. Yet, I fear this network will not be able to realize its full potential in future disasters

because of the lack of interoperability with both public and commercial networks. Without interoperability public safety would suffer limited access and higher costs for wireless technology. The lack of interoperability would also threaten the ubiquity of the current 911 wireless capabilities and puts at risk the primary means for citizens and first responders to save lives.

Consumers have come to expect interoperability in their wireless devices and rightly so; this is a reasonable and fair expectation of the public. Consumers have benefited greatly from interoperability, being able to roam from one system to the next, and through different regions of the country and the world with seamless service and coverage.

While the historic and present benefits of interoperability are clear, the cost of inaction and continued regulatory uncertainty is unacceptably high in terms of delayed investment, fewer jobs, lost consumer benefits and diminished public safety. The stakes are high and the time to act is now. I urge you to lead the FCC in taking prompt action to resolve this issue.

Sincerely yours,

Haley Barbour

cc: Commissioner Mignon L. Clyburn
Commissioner Michael J. Copps
Commissioner Robert M. McDowell

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510–6125

WEB SITE: http://commerce.senate.gov

July 18, 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Dear Chairman Genachowski:

We are writing to urge you to immediately begin a proceeding to make sure all consumers have access to mobile devices operating on the next-generation networks that use 700 MHz spectrum.

Without action, we are concerned that the wireless market may develop in ways that are contrary to the public interest. First, without interoperability across band classes, some consumers will not have access to the cutting-edge devices being developed to take advantage of the benefits of the next-generation 700 MHz networks. If these new devices work only on certain networks, consumers using other carriers may be saddled with less innovative devices.

Second, if these devices do not work across networks, consumers and public safety users who travel may not be able to roam on other networks and could be left stranded without service. Some first responders may be unable to use their wireless devices in emergencies if the devices are not interoperable with the available commercial networks.

We commend the Commission for beginning to tackle these issues through a recent staff workshop. But we have reached a pivotal point in the development of the 700 MHz networks, and the Commission should take additional action to protect consumers. We

encourage you to identify the most suitable means to ensure devices being designed for the 700 MHz band can, as swiftly as possible and to the extent technically feasible, benefit all consumers.

Sincerely,

John D. Rockefeller IV
United States Senator

Mark P. Begich
United States Senator

Roger F. Wicker
United States Senator

Congress of the United States

Washington, DC 20515

November 28, 2011

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn Building
Washington, DC 20515

The Honorable Greg Walden
Chairman
Subcommittee on Communication
and Technology
2125 Rayburn Building
Washington, DC 20515

Dear Chairmen Upton and Walden:

We commend your ongoing legislative and oversight efforts addressing the wireless spectrum needs of our nation's consumers and first responders. We are concerned, however, that a continued lack of action by the Federal Communications Commission on the issue of device interoperability within the 700MHz spectrum leaves hundreds of millions of dollars of private investment stranded and keeps hundreds of millions of dollars more sidelined, unable to create jobs and foster economic growth.

Telecommunications issues are complex and controversial. But, one rather simple principle that is often overlooked: wireless spectrum belongs to the public. Spectrum auctions license the use of spectrum, but do not transfer ownership. As such, there will always be a need for public policymakers to protect the public's ownership interest in this important public asset.

Device interoperability has historically been a part of each spectrum allocation used for cellular deployments (e.g., the 850MHz and PCS spectrum) and we believe the FCC assumed that would continue to be the case following the allocation of the 700MHz spectrum. The FCC, however, was wrong. And, the lack of interoperability at 700MHz has led to the development of multiple, distinct subclasses of spectrum within the 700MHz allocation –limiting the ability of wireless users and providers to access the equipment needed to maximize their utilization and, ultimately, the value of the taxpayers' spectrum asset.

The failure of the FCC to resolve the question of 700MHz device interoperability has created market uncertainty that may potentially devalue this public asset. It is definitely keeping smaller wireless carriers – many of whom serve rural and hard to reach communities – from putting their own capital to work creating jobs by building towers and retail locations in new markets throughout the country.

An FCC resolution of the device interoperability issue that satisfies a majority of market competitors would also provide significant fiscal benefits to the nation's taxpayers. Going forward, the continued regulatory uncertainty created by the FCC's inaction may discourage bidders from participating in future spectrum auctions - reducing the revenues that could be generated for the Treasury from those auctions and used to reduce federal debt and deficits.

Moreover, without a resolution of the 700MHz device interoperability issue, large blocks of auctioned spectrum will remain unused or underutilized at a time when our nation's wireless industry – one of the few bright spots in today's economy – has made clear that in order to grow, it needs federal policies to increase, not limit, wireless carriers' and their customers' access to spectrum.

Since February 2010, the FCC has sought and received, in an ongoing regulatory proceeding (RM-11592), substantial comments on the issue of device interoperability at 700MHz. The Commission should immediately end regulatory uncertainty over this issue and bring its proceeding to a close.

We therefore ask that, as part of your Committee's work on spectrum policy, you consider this issue closely and urge the FCC to resolve quickly any pending proceeding affecting device interoperability within the 700MHz spectrum.

Sincerely,

Gregg Harper, Member of Congress

Alan Nunnelee, Member of Congress

Phil Roe, Member of Congress

Lynn Westmoreland, Member of Congress

Don Young, Member of Congress

cc: Julius Genachowski
Chairman, Federal Communications Commission

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of	)	
	)	
AT&T MOBILITY SPECTRUM LLC	)	
and QUALCOMM INCORPORATED	)	DA 11-252
	)	WT Docket No. 11-18
For Consent to Assign Eleven Lower	)	
700 MHz Band Licenses	)	
	)	
File No. 0004566825	)	

PETITION TO DENY OF CELLULAR SOUTH, INC.

RUSSELL D. LUKAS
DAVID L. NACE

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive
Suite 1200
McLean, VA 22102
(703) 584-8678

Attorneys for
Cellular South, Inc.

March 11, 2011

practices or exclude A Block spectrum in LTE wireless devices that it offers to its subscribers.

ARGUMENT

I. THE IMPOSITION OF THE REQUESTED CONDITIONS WOULD BE CONSISTENT WITH COMMISSION PRACTICE AND PRECEDENT

This is not the first time that Cellular South has petitioned the Commission to grant its consent to a transaction under § 310(d) of the Act subject to conditions to remedy exclusive handset arrangements and the lack of an automatic data roaming mandate.[20] In each case, the Commission either found that the conditions would not remedy a specific harm arising out of the proposed transaction (a "transaction-specific harm")[21] or that they were not "narrowly tailored to prevent a transaction-specific harm."[22] It also found that the need for the imposition of the proposed condition regarding exclusive handset agreements was more appropriately considered on the basis of the full record that was developed in response to the petition for rulemaking in RM No. 11497.[23]

Cellular South filed comments supporting both the promulgation of rules in the so-called data roaming rulemaking in WT Docket No. 05-265 and the commencement of a rulemaking on handset exclusivity in RM No. 11497. Cellular South obviously recognizes that rulemaking is

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[20] *See Cellco Partnership d/b/a Verizon Wireless and AT&T, Inc.*, DA 10-1554, at 28-30 (WTB & IB, Aug. 20, 2010) ("*VZW/AT&T*); *AT&T Inc. and Cellco Partnership d/b/a Verizon Wireless*, 25 FCC Rcd 8704, 8748-49 (2010) ("*AT&T/VZW*"); *AT&T Inc. and Centennial Communications Corp.*, 24 FCC Rcd 13915, 13967-69, 13971-72 (2009) ("*AT&T/Centennial*"); *Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC*, 23 FCC Rcd 17444, 17526-27 (2008) ("*VZW/Atlantis*").

[21] *See VZW/AT&T*, DA 10-1554 at 29.

[22] *AT&T/VZW*, 25 FCC Rcd at 8749; *AT&T/Centennial*, 24 FCC Rcd at 13972; *VZW/Atlantis*, 23 FCC Rcd at 17527,

[23] *See VZW/AT&T*, DA 10-1554 at 30; *AT&T/VZW*, 25 FCC Rcd at 8749; *AT&T/Centennial*, 24 FCC Rcd at 13972; *VZW/Atlantis*, 23 FCC Rcd at 17527-28.

the preferred process for making rules, [24] and it will not urge the Commission to circumvent notice-and-comment rulemaking requirements of the APA. However, Cellular South will show that the Commission can exercise its discretion to adopt and apply "rules" in this adjudication, and do so without prejudice to the ongoing data roaming rulemaking or its actions in RM No. 11497. Furthermore, it will also demonstrate that the Commission has not limited the exercise of its authority under § 303(r) of the Act to prescribing "narrowly tailored, transaction-specific conditions" that will only "remedy harms that arise from the transaction" and are related to its responsibilities under the Act and "related statutes." *E.g., VZW/Atlantis*, 23 FCC Rcd at 17462, 17463.

A. The Conditions Are Consistent with Precedent and Can Be Prescribed Without Violating APA Rulemaking Requirements

The Commission's discretion to develop rules through adjudication,[25] and outside the purview of the APA, reaches its zenith when it reviews telecommunications mergers and acquisitions either under § 214(c) or § 310(d) of the Act. In § 310(d) adjudications,[26] the Commission routinely consents to assignments and transfers of control of licenses subject to conditions, including "conditions with little, if any, direct relation to the actual license transfers before it."[27] It often negotiates "elaborate conditions" from merging parties to comply with all

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[24] *See generally* Kenneth Culp Davis & Richard J. Pierce, Jr., *Administrative Law Treatise* § 6.7, at 261 (3rd ed. 1994) ("Over the years, commentators, judges, and Justices have shown near unanimity in extolling the virtues of the rulemaking process over the process of making 'rules' through case-by-case adjudication").

[25] *See Central Texas Telephone Cooperative, Inc. v. FCC,* 402 F.3d 205, 210 (D.C. Cir. 2005); *Chisholm v. FCC*, 538 F.2d 349, 364-65 (D.C. Cir. 1976).

[26] Under the APA, the process by which the Commission grants its consent to the assignment or transfer of control of a license is an "adjudication." *See* 5 U.S.C. § 551(6)-(9).

[27] Huber, Kellogg & Thorne, *supra*, § 7.3.4, at 609-10.

sorts of regulatory mandates that it deems to be in the public interest.[28] The Commission's practice of conditionally approving license transfers has been described as "regulation by condition" or "de facto rulemaking."[29]

For example, the Commission engaged in de facto rulemaking beginning in 2007, when it found that the proposed transfer of control of the licenses held by ALLTEL Corporation ("ALLTEL") to Atlantis Holdings LLC ("Atlantis") would not adversely affect competition, but did implicate the imposition of an interim, emergency cap on the amount of high-cost universal service support that a competitive eligible telecommunications carrier ("CETC") may receive — a matter that was under consideration in the notice-and-comment rulemaking in WC Docket No. 05-337.[30] Nevertheless, the Commission found that it should "immediately address" ALLTEL's continued receipt of CETC funding in the "context" of its consideration of the proposed transaction.[31] It proceeded to impose an interim cap on the high-cost CETC support provided to ALLTEL as a condition to the grant of the transfer application.[32]

A month after *ALLTEL/Atlantis*, the Commission granted its consent to the transfer of control of the licenses held by Dobson Communications Corporation ("Dobson") to AT&T subject to the condition that AT&T honor its "voluntary" agreement to the same interim cap on CETC high-cost support that had been imposed in *ALLTEL/Atlantis*.[33] At the time the *ALLTEL/Atlantis* interim cap condition was replicated in *AT&T/Dobson*, the recommendation

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[28] Huber, Kellogg & Thorne, *supra*, § 7.3.4, at 610.

[29] *Id.*

[30] *See ALLTEL Corp. and Atlantis Holdings LLC*, 22 FCC Rcd 19517, 19520-21 & n.33 (2007) ("*ALLTEL/Atlantis*").

[31] *Id.*

[32] *See id.* at 19521, 19523.

[33] *See AT&T, Inc. and Dobson Communication Corp.*, 22 FCC Rcd 20295, 20329-30 (2007) ("*AT&T/Dobson*").

that an interim cap on CETC high-cost support be imposed on an industry-wide basis was still under consideration in the Commission's rulemaking in WC Docket No. 05-337. Indeed, the interim cap was not adopted by the Commission until May 1, 2008,[34] and it did not go into effect until August 1, 2008.

The cap on CETC high-cost support adopted in *Interim Cap Order* became a Commission rule that could not be amended or repealed except pursuant to an APA rulemaking.[35] Nevertheless, the Commission departed from its interim cap rule on November 4, 2008, when it adopted orders approving, with conditions, the transfer of control of the ALLTEL licenses from Atlantis to Verizon Wireless,[36] and the transfer of licenses held by Sprint Nextel Corporation ("Sprint") and Clearwire Corporation to a new corporation controlled by Sprint.[37] The Commission conditioned its approval of the two transactions on the carriers' "voluntary commitments" to *surrender* their already-capped high-cost CETC support — estimated as approximately $530 million in 2008[38] — over a five-year period.[39] Thus, the merger conditions imposed in *VZW/Atlantis* and *Sprint/Clearwire* required the CETCs to relinquish their high-cost support and, therefore, were far more onerous than the interim cap rule that the Commission promulgated by rulemaking.

The harm that was remedied by the conditions imposed in *ALLTEL/Atlantis*, *AT&T/Dobson, VZW/Atlantis* and *Sprint/Clearwire* was characterized as the "explosive growth

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[34] *See High-Cost Universal Service Support,* 23 FCC Rcd 8834 (2008) ("*Interim Cap Order*").

[35] *See High-Cost Universal Service Support,* 51 Communications Reg. (P&F) 434, 2010 WL 3484249, at *3 (Sept. 3, 2010).

[36] *See Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC*, 23 FCC Rcd 17444 (2008) ("*VZW/Atlantis*").

[37] *See Sprint Nextel Corp. and Clearwire Corp.*, 23 FCC Rcd 17570 (2008) ("*Sprint/Clearwire*").

[38] *See High-Cost Universal Service Support,* 2010 WL 3484249, at *2.

[39] *See VZW/Atlantis*, 23 FCC Rcd at 17529-32; *Sprint/Clearwire*, 23 FCC Rcd at 17611-12.

in high-cost universal service support disbursements" to CETCs.[40] The "explosive growth" that the Commission needed to control was the average annual growth rate in high-cost disbursements to CETCs of over 100 percent in the years from 2001 through 2007.[41] Thus, the Commission imposed conditions to remedy what it perceived to be a pre-existing, industry-wide "harm" that was either being specifically addressed in the interim cap rulemaking or had already been remedied by the *Interim Cap Order.*

The Commission imposed the condition initially in *ALLTEL/Atlantis* based solely on the assessment of the Federal-State Joint Board on Universal Service ("Joint Board") that, without immediate action to restrain the growth in CETC high-cost support, the federal universal service fund would be in "dire jeopardy of becoming unsustainable."[42] Thus, the Commission imposed a condition on a wireless carrier in a Title III licensing case to remedy a potential harm to a federal program established and administered under Title II of the Act.[43] The Commission eventually imposed conditions in four § 310(d) cases to remedy the potential collapse of the universal service fund. Needless to say, any harm that threatened the Title II universal service fund was wholly unrelated to the transfers of the Title III licenses in *ALLTEL/Atlantis*, *AT&T/Dobson, VZW/Atlantis* and *Sprint/Clearwire.*

By the very same orders by which it remedied an already-remedied harm in *VZW/Atlantis* and *Sprint/Clearwire*, the Commission refused to impose conditions that would have prevented the enforcement of existing exclusive handset arrangements on the grounds that the conditions were "not narrowly tailored to prevent a transaction-specific harm and are more appropriate for a

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[40] *ALLTEL/Atlantis*, 22 FCC Rcd at 19520; *AT&T/Dobson,* 22 FCC Rcd at 20329; *VZW/Atlantis*, 23 FCC Rcd at 17529-30; *Sprint/Clearwire*, 23 FCC Rcd at 17611.

[41] *See Interim Cap Order,* 23 FCC Rcd at 8837-38.

[42] *ALLTEL/Atlantis*, 22 FCC Rcd at 19520.

[43] *See* 47 U.S.C. § 254.

rulemaking proceeding when all interested parties have the opportunity to file comments."[44]

In *Sprint/Clearwire,* the Commission even suggested that the issue of whether exclusive handset agreements cause competitive harm had been "improperly" raised, because the petitioner had "failed to demonstrate any nexus between the instant transaction and the harms it seeks to address."[45] That suggestion proved to be ill considered when the Commission proceeded to condition its approval of the transaction on Sprint's "voluntary commitment" to phase out its high-cost CETC support having found no nexus between the transaction and any harm to the universal service fund.[46] It even acknowledged both that an interim cap was already in place that "superseded" the cap "adopted" in *ALLTEL/Atlantis,*[47] and that the phase out of high-cost support was under consideration in its comprehensive high-cost reform rulemaking.[48]

The *ALLTEL/Atlantis*, *AT&T/Dobson, VZW/Atlantis* and *Sprint/Clearwire* line of cases constitute precedent for approving the AT&T/Qualcomm assignment of licenses subject to the sought by Cellular South. The four cases establish that a license condition need not remedy a transaction-specific harm, and that a condition can be imposed even when the need for the remedy on an industry-wide basis is the subject of an ongoing rulemaking. Under such case precedent, the Commission can impose the requested conditions on AT&T to prohibit conduct that causes competitive harms to competing carriers despite the fact the Commission is considering the promulgation of rules to prohibit dominant wireless carriers from engaging in the same conduct and causing competitive harms on an industry-wide basis.

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[44] *VZW/Atlantis*, 23 FCC Rcd at 17527; *Sprint Nextel,* 23 FCC Rcd at 17607.

[45] *Sprint/Clearwire*, 23 FCC Rcd at 17607.

[46] *Id.*

[47] *Id.* at 17612 n.289.

[48] *See id.* at 17612.

Finally, the Commission's adoption of an interim cap on high-cost CETC support by the imposition of conditions in *ALLTEL/Atlantis* and *AT&T/Dobson* demonstrated that the Commission can impose the requested conditions on AT&T without running afoul of the notice-and-comment requirements of the APA. The *Interim Cap Order* was challenged on appeal on the grounds that the Commission violated the APA by imposing the interim cap in *ALLTEL/Atlantis* and *AT&T/Dobson* before completing its notice-and-comment rulemaking in WC Docket No. 05-337, thereby prejudging the issue in its interim cap rulemaking.[49] The court shrugged off the APA challenge by noting that *ALLTEL/Atlantis* and *AT&T/Dobson* only imposed restrictions on the parties directly involved in the mergers,[50] and holding that the APA required nothing more of the Commission than to have compiled a record that included the comments of interested parties, considered those comments, and issued its *Interim Cap Order* after the rulemaking process was completed.[51] Under *RCA*, the Commission can impose the requested conditions on AT&T without violating the APA so long as it ultimately complies with its notice-and-comment requirements in the conduct of its data roaming, handset exclusivity and 700 MHz interoperability rulemakings.

B. The Commission Can Impose the Conditions to Remedy Harms that Are Wholly Unrelated to the AT&T/Qualcomm Assignment

The *ALLTEL/Atlantis*, *AT&T/Dobson, VZW/Atlantis* and *Sprint/Clearwire* line of cases demonstrates the Commission's willingness to exercise is plenary power to impose conditions under § 310(d) that bear no relation to competitive or other concerns arising from the transactions. Any doubt as to that matter is dispelled by an examination of the eleven-page

[49] *See Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1100-01 (D.C. Cir. 2009) ("*RCA*").

[50] *See id.* at 1100.

[51] *See id.* at 1101.

laundry list of conditions that that the Commission imposed on its approval of AT&T's merger with BellSouth Corporation ("BellSouth") in 2007.[52] The "merger commitments" that individual Commissioners "extracted" from AT&T/BellSouth[53] included the conditions that it: (1) "repatriate" 3,000 jobs that had been outsourced by BellSouth outside of the United States, at least 200 of the "repatriated" job had to be physically located within the New Orleans, Louisiana MSA;[54] (2) provide new customers with broadband Internet access service at speeds up to 768 kbps for $10/month;[55] (3) "donate $1 million to a [§] 501(c)(3) foundation or public entities for the purpose of promoting public safety;"[56] and (4) adhere to the "net neutrality" principles set forth in the Commission's policy statement in *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, 20 FCC Rcd 14986 (2005).[57]

Especially in light of the conditions it prescribed in *AT&T/BellSouth*, the Commission cannot continue to decline to "impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction." *E.g., VZW/Atlantis*, 23 FCC Rcd at 17463. In practice, the Commission imposes a wide range of conditions under the public interest standard to achieve what it perceives to be among the "broad aims" of the Act.[58] The Commission should see that the imposition of the conditions requested by Cellular South will serve to preserve wireless competition in the 700 MHz band and thereby serve the pro-competitive goals of the Act.

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[52] *See AT&T Inc. and BellSouth Corp.*, 22 FCC Rcd 5662, 5807-17 (2007) ("*AT&T/BellSouth*").

[53] *Id.* at 5827 (Joint Statement of Chairman Martin and Commissioner Tate).

[54] *Id.* at 5807.

[55] *See AT&T/BellSouth*, 22 FCC Rcd at 5808.

[56] *Id.*

[57] *See id.* at 5814.

[58] *See* Huber, Kellogg & Thorne, *supra*, § 7.5.1, at 625.